

### **REMARKS**

In response to the Office Action mailed May 24, 2006, Applicants respectfully request reconsideration. Claims 1-5 are pending in this application. Claims 1 and 4 have been amended herein. No new matter has been added.

#### **Rejections Under 35 U.S.C. §112**

The Office Action rejected claim 4 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Accordingly, claim 4 has been amended as suggested in the Office Action to recite “in the wavelength range from 400 nm to 900 nm.” Therefore, withdrawal of this rejection is respectfully requested.

#### **Rejections Under 35 U.S.C. §102**

The Office Action rejected claims 1, 2 and 5 under 35 U.S.C. §102(b) as being anticipated by JP 2001-156321 (hereinafter JP ‘321). Applicants respectfully request reconsideration.

JP ‘321 will be discussed herein as best understood from the machine translation of JP ‘321 provided by the USPTO. JP ‘321 describes a semiconductor device for use as a solar battery (¶ 1). An ITO film 2 is sputtered to a thickness of 10 microns on a transparent glass substrate. A buffer layer 4 of titanium oxide is then prepared on ITO film 2, in a thickness of 0.2 microns (¶ 123 and ¶ 134)

By contrast, claim 1 as amended recites:

A photovoltaic element comprising an ITO substrate coated with a metallic oxide layer or a derivative layer thereof as a transparent electrode, **the metallic oxide layer or derivative layer being from 10nm to 100nm thick.**

Claim 1 patentably distinguishes over JP ‘321 because JP ‘321 does not teach or suggest a metallic oxide layer or derivative layer being from 10 nm to 100 nm thick. Rather, JP ‘321 states that buffer layer 4 has a thickness of 0.2 microns (200 nm). Therefore, claim 1 patentably distinguishes over JP ‘321. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 2-5 depend from claim 1 and are therefore patentable for at least the same reasons.

Rejections Under 35 U.S.C. §103(a)

The Office Action rejected claims 1-5 under 35 U.S.C. §103(a) as being unpatentable over Han (U.S. Patent No. 6,150,605). Applicants respectfully request reconsideration.

Han relates to a photovoltaic cell having a transparent conductive film 2 and a first semiconductor film 3. Han states that the transparent electrode may be made from ITO or tin oxide (col. 2, lines 53-56). In addition, Han also states that a semiconductor layer may be formed of inorganic semiconductor such as titanium oxide (col. 3, lines 12-16). The thickness of the inorganic semiconductor film is between 0.3 microns and 50 microns (col. 3, lines 39-41).

By contrast, claim 1 as amended recites **a metallic oxide layer or derivative layer being from 10 nm to 100 nm thick**. Claim 1 patentably distinguishes over Han because Han does not teach or suggest a metallic oxide or derivative layer being from 10 nm to 100 nm thick. Therefore, claim 1 patentably distinguishes over Han. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 2-5 depend from claim 1 and are therefore patentable for at least the same reasons.

**CONCLUSION**

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

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Respectfully submitted,

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